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Professor Says His Plan May Free 2 Held in China

By Ronald Koven
Washington Post Staff Writer

The Nixon administration has under consideration a proposal to obtain the release of two of the four remaining U.S. prisoners on mainland China by conceding, in effect, that the pair was flying for the Central Intelligence Agency when they were shot down in late 1952, according to a top U.S. expert on Chinese law.

Prof. Jerome A. Cohen of the Harvard Law School said he had made the suggestion after discussing it with Chinese Communist diplomats in Ottawa last month and that the idea had received "working-level" endorsement inside the government.

Cohen said the Chinese did not indicate what their government would do if Washington were to drop its standing story that the two men strayed over China by mistake. But the diplomats told Cohen that his suggestion was worth considering.

Following Secretary of State William P. Rogers' orders not to discuss China policy now that President Nixon is in delicate negotiations about his projected visit to China, State Department officials refused to comment.

After testimony by Prof. Cohen before the Senate Foreign Relations Committee, Chairman J. Fulbright (D-Ark.) wrote to Rogers expressing interest in the professor's suggestion.

The letter was dated July 6, three days before a secret visit to Peking by presidential adviser Henry Kissinger to set up Mr. Nixon's visit.

Any internal recommendation to alter the U.S. government's standard version of the 1952 overflight would presumably have come in the form of a recommendation to reply favorably upon Cohen's suggestion in an answer to Fulbright.

The two prisoners, are John Thomas Downey and Richard Fecteau. Downey was sentenced to life imprisonment and Fecteau is due for release next year.

The two were shot down

Prof. Cohen and Downey were classmates at Yale University (class of 1951). Cohen has been active in an informal alumni write-to-your-congressman campaign to pressure the administration to obtain his release.

Cohen said in a telephone interview from his New England summer home that he has recently detected a subtle shift in the government's standard reply to such letters. He said that it has been shortened up and no longer involves "an absolute untruth" about the pair's mission and status, Cohen said.

The professor said he would not be surprised if Fecteau were to be released in the fall and if President Nixon subse-

quently brought Downey home with him on his plane from Peking.

Cohen said he has discussed the matter with State Department officials. He said that his last contact with Chinese diplomats in Ottawa was on June 26 and that it was only the most recent of three meetings he has had with them there.

The other two Americans known to be in Chinese prisons are two Air Force officers, Capt. Philip Smith and Lt. Robert J. Flynn. Just a year ago, the Chinese released a fifth man, the aged Bishop James E. Walsh. That release was seen primarily as a gesture to the Vatican, which had been making overtures to Peking.

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